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Message Text

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ACTION EB-11

INFO OCT-01 EUR-25 ADP-00 AGR-20 CEA-02 CIAE-00 COME-00

DODE-00 FRB-02 H-02 INR-10 INT-08 L-03 LAB-06 NSAE-00

NSC-10 PA-03 RSC-01 AID-20 CIEP-02 SS-15 STR-08

TAR-02 TRSE-00 USIA-12 PRS-01 SAL-01 OMB-01 RSR-01

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E. O. 11652: GDS
TAGS: ETRD, GW, US
SUBJ: PROPOSED US TRADE LEGISLATION: FRG REACTIONS

REF: A. BONN 4423; B. BONN 4337; C. BONN 4265

1. SUMMARY: SINCE THE VISIT OF SECRETARY OF TREASURY SHULTZ AND UNDER SECRETARY OF STATE CASEY, WE HAVE TAKEN FURTHER SOUNDINGS TO CLARIFY THE PRELIMINARY FRG REACTIONS TO THE PROPOSED US TRADE BILL (REPORTED IN REFTELS). FROM THESE CONVERSATTIONS, THE FOLLOWING MAIN ELEMENTS EMERGE, ALTHOUGH THERE ARE CONTINUING ECONOMICS MINISTRY- FOREIGN OFFICE DIFFERENCES ON DEGREES OF EMPHASIS.

A. THE FRG APPRECIATES (ESPECIALLY SINCE THE MILLS STATEMENT OF MARCH 21) THAT THE MAKEUP OF THE BILL IN TERMS OF AUTHORITY TO RAISE AS WELL AS LOWER RESTRICTIONS HAS SIGNIFICANTLY CONTRIBUTED TO THE PROSPECTS FOR FAVORABLE CONGRESSIONAL ACTION AND THUS FOR SUCCESS-
FUL TRADE NEGOTIATIONS. B. WHILE THE FRG IS NOT SURE HOW THE US ADMINISTRATION WILL USE THE REQUESTED AUTHORITY TO RAISE RESTRICTIONS, IT APPEARS EQUALLY CONCERNED OVER THE CONTAGION EFFECT, I. E., THE PROSPECT THAT OTHER COUNTRIES MAY CREATE MATCHING INSTRU-
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MENTS AND APPLY THEM LESS CAREFULLY THAN THE U. S. C. THE FRG DOES NOT ACCEPT THE US ASSERTION THAT ALL OTHER MAJOR TRADERS NOW HAVE AUTHORITY COMPARABLE TO THAT IN THE PROPOSED US BILL. END SUMMARY.

2. IN LIGHT OF PREVIOUS REPORTING (REFTELS) WE SHALL AMPLIFY FRG VIEWS MAINLY ON THE LATTER POINT. BOTH AS REGARDS THE FRG (PARTICULARLY ITS NATIONAL LAW ON QRS NOT SUBJECT TO COMMON EC REGULATION) AND THE EC, BONN OFFICIALS DO NOT ACCEPT THE US POSITION THAT EUROPE HAS A RESTRICTIONIST CAPABILITY COMPARABLE TO THAT IN THE PROPOSED US BILL. FRG OFFICIALS NOTE THAT UNDER ARTICLES 28 AND 113 OF ROME TREATY THE COMMUNITY IS SOVEREIGN IN THE COMMERCIAL POLICY FIELD AND CAN, THEREFORE, LEGALLY, RAISE OR LOWER TARIFFS WITHOUT LIMIT. THEY POINT OUT, HOWEVER, THAT THIS AUTHORITY DIFFERS IN SEVERAL RESPECTS FROM THE VESTING OF SPECIFIC AUTHORITY IN THE US PRESIDENT TO RAISE TRADE RESTRICTIONS.

3. FIRST, THE GENERAL ARTICLE 28 AUTHORITY AUTONOMOUSLY TO MODIFY THE CXT RESTS WITH THE COUNCIL ACTING UNANIMOUSLY. THE ARTICLE 113 AUTHORITY TO ADAPT COMMON RESTRICTIVE MEASURES IN THE CASE OF THE ALIGNMENT OF NATIONAL PROTECTIVE MEASURES AND AS A RESULT OF TRADE NEGOTIATIONS RESTS WITH THE COMMISSION AND THE COUNCIL, ACTING BY QUALIFIED MAJORITY. WHILE AVOIDING THE DIDACTIC PROPOSITION THAT THE EC COUNCIL, CONSTITUTIONALLY, IS MORE COMPARABLE TO THE US CONGRESS THAN THE PRESIDENT, BONN DOES SEE A GREAT DIFFERENCE BETWEEN THE US PRESIDENT AND A COUNCIL OF NINE GOVERNMENT REPRESENTATIVES. THE DISPARITY OF VIEWS AMONG THESE GOVERNMENTS MAKES THE COUNCIL, BONN ARGUES, A BODY OF LIMITED
FLEXIBILITY, ESPECIALLY IN AN AREA SUCH AS INDUSTRIAL TRADE RE-STRICTIONS WHERE AT LEAST ONE KEY COUNTRY (THE FRG AS BONN SEES IT) IS OPPOSED IN PRINCIPLE TO NEW RESTRICTIONS.

4. SECOND, FRG OFFICIALS ARGUE THAT THERE IS A LEGAL AND POLITICAL DIFFERENCE BETWEEN GENERAL SOVEREIGN AUTHORITY AND SPECIFIC LEGAL INSTRUMENTS FOR RESTRICTIVE ACTION. IN THIS CONNECTION THEY POINT OUT THAT THE EC COMMISSION AT ONE POINT PREPARED A REGULATION GOVERNING EC REACTION (BEYOND ANTI- DUMPING AND COUNTERVAILING DUTIES) TO UNFAIR AND UNREASONABLE TRADE PRACTICES, ALONG THE LINES OF US SECTION 252, BUT ADOPTION WAS BLOCKED BY THE FRG AND OTHERS. BOTH THE
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